Practice of ḥalālah (marriage with the intention of divorce) and Islamic Concept in the Light of Fiqh

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Abstract

Marriage in Islam is the legal contract that has religious bindings and is highly revered and extolled in Islam. Great emphasis is laid for protection and maintenance of this contract and certain rights and duties become its integral part. A temporary marriage with the intention of divorce is called ḥalālah which is condemned and highly abhorred in Islam. The prime objective of this research is to find out the real concept of ḥalālah in Islam in the light of basic sources Qur'ān and Sunnah. The present research also aims to draw attention of the masses to this subject and to evaluate misconceptions regarding moral and ethical bases of the distorted projection of Islamic injunctions on the issue of ḥalālah. A descriptive study in this regard was conducted to analyze the differences and clarifying the concepts of masses by elaborating the Qur'ānic verses, their elucidation in various tafāsīr, traditions of the Prophet Muḥammad (S.A.W) and juristic opinions of major schools of thought in Islamic Law. The findings of the research brings forth logical arguments that support the theme of this research and a situation in the present Pakistani context is also briefly given to give the perspective of country laws prevalent in Pakistan. It was concluded that ḥalālah marriages are distorting the moral and ethical basis of Islam and due to wrong concept of ḥalālah people are making the mockery of Divine laws. The prevalent concept of ḥalālah among masses is totally different from the Islamic concept given through Qur'ānic injunctions. This can be rectified only by awareness and proper guidance to Islamic injunctions.

Key words: Muslim Family Law, Ṭalāq Raj'ī, 'Iddah, Ḥalālah.

Introduction:

The social building of Islam stands on the footing ground of matrimonial institution which enables the married couple to have sexual relations in legal manner. This bond expresses a socially recognized relationship which leads to preservation of human species and growth by love and affection with a sense of their responsibility.[1] In order to elude any stains and tints on this relationship, not only the Quranic teachings but *traditions* of Prophet Muḥammadﷺ have given proper set of rules that enable the married couple to serve this bond gallantly and graciously even after the breakdown of this relation.[2] In the institution of Muslim Family law, *ṭalāq-e-raj'ī* is such type of revocable divorce after the decree of which husband can reconcile with his wife within the waiting period. If the *'iddah* period is completed after the utterance of first and then second divorce but prior to the pronouncement of divorce at the third time, husband has choice to take his wife back by reconciliation with her. This form of separation is known as *ṭalāq e-bāin ṣughrā.* After the utterance of third divorce which is commonly known as *ṭalāq e-bāin kubrā* or *mughallaẓah*, there remain no way of reunification between them until and unless the extraordinary condition of *ḥalālah* is ought to be filled out.

In the practice of *ḥalālah* the lady who has been divorced irrevocably by her husband, marries second time to some other body with the sincere intention of living with him in good conscience but again unluckily if she also becomes divorcee of second husband after triple divorce or widowed if death approaches him, then after passing the '*iddah* period, Islam does not raise any objection if she wants to remarry with the first husband.[3]

In fact, the misconception of *ḥalālah* is the repulsive corollary of pronouncement of multiple numbers of divorces in Pakistani society. The true concept of *ḥalālah* that has been taught by the Qur'ān in verse 230 of *Sūrah al-Baqarah* neither expounded nor finds favor in practical

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manner in Pakistan by general public. Sharī'ah being the ultimate letter of law, there are specific procedures of marriage and separate rules for men and women under the terms of Islamic law for divorce. Though religion provides the legal framework of the society but in contemporary lifestyles, people are ignorant of legal matters and this subtle issue really needs public attention. This research is aimed to analyze the implication of *ḥalālah* marriages and their effects in morals of society and to examine the effects of *ḥalālah* marriages in psychological perspective on the family. It is also focused to know if religion support such marriages and to find out why Sharīah has disapproved it and what the negative repercussions of these marriages are?

Unfortunately the concept of *ḥalālah* is contrary to Islam in Pakistani society and the obnoxious practice of preplanned *ḥalālah* is very common, in which after triple divorce the former husband arranges some person in order to marry his ex-wife and then divorce her. The first husband does so in order to make her legal for him by the new contract of marriage. It is no doubt this preplanned *ḥalālah* practice is mockery of Divine injunctions and Prophet Muhammad ﷺhas noticeably rejected this practice in his traditions.[4] Sadly, the masses of Pakistan simply in the label of Islam, wrongly practiced this concept. Generally people do not follow the true Islamic injunctions regarding remarriage after divorce to the ex-husband. However, lack of knowledge of Islam, public ignorance of Islamic teachings and weakness in implementation of legislation of Islamic laws are the fundamental causes of such wrong practices.

In this research different methods of dissolution of marriage according to Islamic injunctions and misconception regarding *ḥalālah* prevailing in Pakistani society are discussed. A comparison is made between the core principles of Islamic law and contemporary laws along with practices of individuals. It is need of time that awareness be raised for Islamic teachings and family laws[5] in order to have a true conception of *ḥalālah*, a person must have complete and correct perception of marriage and divorce system in Islam.

Marriage Customs in Pre-Islamic Era:

In the pre-Islamic era there were four types of marriages according to Haḍrat 'Āyesha R.A., the first type of marriage was similar to the present system of marriage i.e. in order to marry with a girl a guy used to go to the person under whose guardianship the girl was supervised and asked for her hand from him or go to her father if he is alive, in order to ask for marriage with her if father came to be affirmative response after that, this guy by giving her wedding gift according to the custom then marry her. In the second type of marriage customs, the after gaining purity from menstruation period, in order to have child of noble breed the person who marries a woman would say to his wife to go this and that person in order to have conjugal relations with him. Afterwards her husband would neither sleep with her nor approach her until and unless she conceives pregnancy from the other man with whom she had sexual relations. After when she became expected then her husband used to sleep with her if he desires so. In the days of *Jāhiliyyah* such type of marriage was known as *al-Istibḍā'*.[6]

In third kind of marriage a crowd of nearly ten men used to gather and all of them entered upon a woman to have sexual relations with her, and all of them would have sexual pleasure with her. Subsequently if she became expected of having a child in her womb, after pregnancy then delivery from a child-birth and she used to gather all the persons. When all the persons come and gathered at one place after gaining their attention she used say by all of them. O men of honor! Nobody is unaware of what you have done with me even all of you know it well and now I have gathered all of you in order to communicate that after prenatal period I have delivered a baby. At that moment she would have to take the name of person to whom she loved the most afterwards she had to give child under his supervision and this person never ever refused to take him in any way. In the fourth type and last custom of marriage was that number of man used to enter upon a lady in order to have sexual relation with her. She invites all of them and never ever stops anyone to come to her.

So those were the prostitutes who used to inject red ribbons outside their doors as signs and then interested persons used to have sexual relations. After giving birth to a child subsequently passing the pregnancy period, all of the persons used to gather at one place and also called the Qā'ifs at this place. The Qā'ifs would let the child to whom he resembles the most then after deep judgment this lady she used to let his adherence to him after wards this child would be called as his son. This person could never reject to take him. However, when Messenger of Islam Prophet Muḥammadﷺcame with Divine revelation, then and there he wiped out all these vile customs of pre-Islamic age of ignorance, from the roots especially abhorrent marriage customs prevailing in Arabs in the days of *Jāhiliyyah*.[7]

Institution of Marriage in Islam:

Marriage is a civil and religious contract by which a man gets into a relationship with a woman for the purpose of the civilized society. Divorce is dissolution of a marriage bond by legal process or by accepted custom. The virtues of happy and harmonious matrimonial relations have Divine sanctity and pleasure. Marriage in Islam is a unique Institution which constitutes the foundation of family and community relationship, the backbone of social system in Islam. Mutual interaction is the fundanental bond of marriage relationships. It is no doubt that marriage institution leads to up lift of man and it is means for continuance of human race.[8]

After marriage husband can only exercise his one of the two rights of divorce and after the pronouncement of third time there is no option of reconciliation at all so the contract of marriage dissolves. If the spouses want to reunite by their own will, they are not permitted to do it, neither the man can take his words of divorce back nor can they couple by fresh bond of marriage.[9]

Prohibition of re-union of couple after triple divorce:

After being divorced thrice, Islam prohibits the couple to get married again unless the extraordinary condition of *ḥalālah* is fulfilled. It means they are not permitted to get into wed-lock again until the ex-wife joins in matrimony to another man. The person to whom she consummated the marriage second time, either divorces her out of his own decisional motivation or get deceased then after *'iddah* she is allowed to marry to the first husband. In order to avoid the occurrence of triple divorce and to shield the integrity of the woman this imperative is specified by the Islamic *Sharī'ah*.[10]

Concept of *Ḥalālah* in Islam:

If the second marriage is contracted with the conditional plan or aim to make her legitimate to her first husband, this concept contradicts with the wisdom of Islamic teachings. The central idea here is that a *ḥalālah* cannot be pre-planned, as a *nikāḥ* between her and the second spouse with an indulgent of intention an immediate separation afterwards would not be considered as valid contract of marriage. If she prepares to do so, then it would be a prohibited relationship with the second husband and also with the former husband with whom she emanates to live her life after a pre-planned practice of *ḥalālah*. Prophet Muhammad ﷺ has cursed both such men who perform *ḥalālah* and for whom *ḥalālah* is performed.

After the utterance of three divorces *(ṭalāq bā'in)* there is only one way of reconciliation between the divorced spouses and this way is called *ḥalālah*. *Ḥalālah* can be defined as after '*iddah* of divorce from the first husband, the second marriage contract would be laid down between her and another person and marriage should be legally cohabited and later at times if this woman divorced by him or else become widow because of his death, after passing the legal period of '*iddah* this lady can back together with the ex-husband by new contract of

marriage.[11] A man who divorces his wife by three pronouncements of divorce, she is not lawful for him.[12]

A woman who has been divorced by pronouncement of *ṭalāq* thrice becomes *ḥarām* for first husband. The cohabitation between the divorced couple is not valid until and unless divorced women legally marry another person and have legal relation with him. However, if second husband divorces her then she will become lawful for the first husband provided that there is no intention of re-marriage to the first while signing the contract with the second husband.[13]

A person, who is involved in marrying his ex-wife with some other person by the intention to remove the legal bar between them to marry her again, would be a sinner because the Prophet Muḥammad ﷺ has showered curse on both of them, i.e. person who commits *ḥalālah* and for whom *ḥalālah* was committed. So the second marriage was not legal because there was no intention of union for life rather only for the purpose of *ḥalālah*. [14]

If the marriage has been consummated in this manner then it would be *bāṭil* or void marriage so there is no need of observance of '*iddah* period, the reason behind this is if there is no legal marriage between the parties then there would be no need of observance of '*iddah* period. As marriage contracted for the purpose of *ḥalālah* is void marriage so the '*iddah* period is not necessary for this type of marriage.[15]

When the husband has given wife the divorce thrice, he is not allowed to re-marry her until she legally contracted second marriage to another husband. This second husband at any span of life either divorces her or gets deceased then after that she can marry to the first husband. So the legal bar between the divorced couple can only be removed by natural way, the acceptable way of *ḥalālah*.[16] The *ṣaḥīḥ ḥadīth* explains that to make his divorced-wife *ḥalāl* for him, if a person marries her to another person secretly and also plans that he would divorce her after *nikāḥ* it is no doubt an illegal act. This contract of marriage is not a marriage, but a contract of illegal-relation. Through this pre-planned *nikāḥ*, a woman is not at all become *ḥalāl* for the first husband.[17]

Concept of *ḥalālah* in the light of Qur'ān:

The injunctions of the Qur'ān demonstrate that the concept of *ḥalālah* is indirectly discussed by the Qur'ān as word "*ḥalālah* " has not been used in the Qur'ān. However Qur'ān uses the word *ḥalāl* instead of *ḥalālah*, so it seems the word has been derived from the root "*ḥll*" (lawful). So it means, a course in which a definitely divorced lady can again become *ḥalāl* (lawful) for her husband. The foremost condition is that she marries to the second husband without any pre-plan; in any turn of life if second husband divorces her or gets deceased then this lady after passing the '*iddah* can marry to the first husband if she wants.[18] The Qur'ān discusses the concept of *ḥalālah* in chapter 2, verse 230 in which Allah Almighty said;

''فَاِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْۢ بَعْدُ حَتّٰى تَنْكِحَ زَوْجًا غَيْرَهٗ ۭ فَاِنْ طَلَّقَهَا فَلَاجُنَاحَ عَلَيْهِمَآ اَنْ يَّتَرَاجَعَآ اِنْ ظَنَّآ اَنْ يُّقِيْمَا حُدُوْدَ اللّٰهِ ۭ وَتِلْكَ حُدُوْدُ اللّٰهِ يُبَيِّنُهَالِقَوْمٍ يَّعْلَمُوْنَ''[19]

> "And if he has divorced her (for the third time), then she is not lawful to him afterward until (after) she marries a husband other than him. And if the latter husband divorces her (or dies), there is no blame upon the woman and her former husband for returning to each other if they think that they can keep (within) the limits of Allah . These are the limits of Allah, which He makes clear to a people who know."

Ḥalālah in the Light of Tafāsīr:

Different *mufassirs* have elaborated the concept of *ḥalālah* in their own thought conveying the same concept but their expression is varied. In *The Meaning of Holy Qur'ān*[20] through authentic traditions it is warned that pre-planned arrangement of *ḥalālah* marriage is strictly prohibited in Islam. In such practice a certain person should marry a certain divorced lady with the intention that he would divorce her again to enable the former husband to remarry his divorced wife. If somebody acted upon this then it would be an unlawful act and such a marriage shall be no marriage at all but considered as an act of adultery and woman shall not become lawful wife of the first husband by such pre-planned scheme.[21]

In the tafsīr *The Noble Quran*[22] it is stated that when the husband triple divorces his wife then this divorced lady becomes unlawful for the husband unless she goes in to wed-lock with some other person and this second husband cohabits the marriage in legal manner. If the second husband divorces her without any pressure then after passing '*iddah* of divorce this lady can marry the first husband. Both can marry provided the condition that they intend to fulfill their mutual obligations and will remain within the limits prescribed by Allah Almighty. Otherwise there is danger of reoccurrence of mutual dissensions and encroachment on mutual rights and obligations and they will fall into sin.[23]

The Light of the Holy Qur'ān[24] explains that contract of marriage is annulled after utterance of third divorce. Now, if the former husband wishes to remarry her he cannot do this unless the divorced lady marries someone else having a sincere intention of living with him, incarnate her life with him faithfully and also have marital relation with him. After that, if, for some reason, the second husband divorced her, she can remarry her former husband. This interpretation gives the clear description of concept of *ḥalālah*. Some people resort to *ḥalālah* fake marriage, to evade this law, but they should remember that no trickery can make lawful what Allah Almighty has declared unlawful.[25] He who marries a woman with the intention of divorce clearly disobeys the commands of Allah Almighty.[26]

Taysīr al Qur'ān[27] is the *tafsīr* in which the writer has given the concept of *ḥalālah* very elaborately. He explains the prohibition of *ḥalālah* marriage and its awful aspects. If a person makes his divorced wife marry another person in order to make her *ḥalāl* for himself then this marriage is not valid but in fact a clear obscenity. Through this pre-planned marriage and divorce this woman does not become lawful for the first husband. Prophet Muḥammad ﷺ has cursed those people who are involved in *ḥalālah* practice.[28] Act of triple divorce in one session and *ḥalālah* [29]means contempt of verses of Allah because it's a mockery to mold the meaning of verses of Allah Almighty. To avoid the punishment Allah Almighty has prescribed, limits of Allah Almighty must not be crossed.[30]

The last tafsīr taken for this discussion was *Bayān al –Qur'ān*. It states that after pronouncement of divorce thrice the woman becomes unlawful for him. It is not necessary either divorce is in clear words or not but if intention is there then divorce will occur, means they cannot reunite with each other until she marries second time with some other person and second husband also have marital relations with her. Without any planning if second husband divorces her, then it is no sin for her if she marries to the first husband after passing through '*iddah* period. This is called *ḥalālah* in Islam.[31]

Ḥalālah in the Light of Traditions of Prophet Muḥammadﷺ:

If a woman is divorced by three pronouncements after which her husband wants to take her back, it is not allowed. If a second man marries her, and he has no intention to have a matrimonial or family life with her permanently; rather he intends to divorce her after

marriage and having sexual intercourse, so this marriage is a fake and this type of temporary marriage, is not acceptable in Islam and totally against the Islamic *Sharī'ah*.
Ṣaḥīḥ Muslim (chapter 17, ḥadīth 1836 states that it is not permissible for a women while she has been thrice-divorced to return to the one who divorced her until she marries another husband who has intercourse with her, then divorces her, and she completes the *'iddah*; It was narrated that 'Āyishah [R.A] said; Once upon a time a woman who was wife of Rifaah came to Prophet Muhammad ﷺ and said that "I was wife of Rifā'ah but he divorced me by three pronouncements. After triple divorce, I married 'Abd-ur-Rahman b. al- Zubair, but he proved impotent." The Prophet Muhammad ﷺ smiled and said to her: 'Do you want to go back to Rifā'ah? No, not until you taste his ('Abd-ur-Rahman's) sweetness and he tastes your sweetness.''[32] The same report has been mentioned by al-Tirmidhi in *Jāmi'* (chapter 27),[33] and al-Nisā'i in *Sunan* (chapter 43).[34]
In chapter 28 of Jāmi' al-Tirmidhi having named *what has been related about the muḥallil and muḥallal lahu (the one who does it and the one for whom this practice is done)*, in which it is reported that; Jābir b. 'Abdullah and 'Ali narrated: the Prophet Muḥammad ﷺ cursed *Muḥallil* and the *Muḥallal-lahu*".[35] It means the curse is for both; the one who does it, and the one for whom it is done. The same point has also been reported in *Sunan* of *Abī Dāwūd* (chapter 14/15),[36] Another ḥadīth reported by Ibn Mājah in his *Sunan* (chapter 33) clearly states that: "The Messenger of Allah cursed the *Muḥalill* and the *Muḥallal lahu*."[37] 'Uqbah b. 'Amir narrated that the Messenger of Allah ﷺ said: 'Shall I not tell you of a rented bull." All of them said: "why not, O Prophet Muhammadﷺ!" He said: "He is *Muḥallil*. May Allah curse the *Muḥallil* and the *Muḥallal lahu*.''[38]
'Ali, Ibn Mas'ūd, Abu Hurayrah and 'Uqbah b. 'Āmir (R.A) all relate the tradition to the effect that Prophet Muḥammad ﷺ cursed all the persons who indulge in such vain acts. The curse proves the prohibition of *ḥalālah*, because a permissible deed never causes a curse. The person who performs *ḥalālah* is named, in the ḥadīth, a rented bull which stresses the gravity of evil in this act. Through these *aḥādīth* of Prophet Muḥammad ﷺ it became evident that temporarily marrying a second husband for the sake of getting married again to the first husband is not lawful according to above narrations. No Muslim is allowed to go against the Divine law.

Ḥalālah in the Light of Four Sunni Schools of Thought :

There is no contradiction on the point that *nikāḥ* contracted on condition that second husband will divorce his wife after consummating the marriage in order to make her permissible for the first husband, is *ḥarām* and all those people who are involved in this practice deserve curse upon them. It is required that all Muslims should strive to avoid this. If some person gets involved in this so here the question arises that is a *nikāḥ* contracted in this manner is valid or not? Whether this lady after getting divorced from the second husband becomes lawful for the first husband or not? Either the condition of divorce after consummating the marriage is binding on the second husband or not?[39]
The *nikāḥ* contracted on the base of *ḥalālah* is *makrūh* but does not become *fāsid* in the eyes of Imām Abū Ḥanīfah and after that *nikāḥ* she becomes lawful for the previous husband. He gives evidence of his point that Prophet Muḥammadﷺ has cursed on both *muḥallil* and *muḥallal lahu* which means that *nikāḥ* becomes *makrūh* but not *fāsid*. So after consummation of second marriage she becomes allowed for the first husband (after death of second husband or divorce from him).[40] According to Imām Abū Yūsuf this *nikāḥ* is *fāsid* so she cannot become lawful for the first husband. But the point of view of Imām Muḥammad is that this *nikāḥ* is valid because of the reason that *nikāḥ* cannot become *bāṭil* on any condition. This

woman cannot become lawful for the former husband due to the reason that he made haste to gain her after divorce in the same manner as an inheritor becomes devoid of right of property who kills the person from whom he was inherited.[41] Imām Muḥammad agrees with the point of view of Abū Ḥanīfah that this *nikāḥ* to the second husband is valid. According to them no condition can make a *nikāḥ* invalid but as the main purpose of *nikāḥ* is ever living with husband becomes put an end to prior to pre-planned *ḥalālah nikāḥ* (with the second husband) so punishment is given to the first husband in such a manner that his divorced wife does not becomes permissible for him after divorced from second husband.[42]
According to Shāfi'i school, if *taḥlīl* condition is insisted on in contract of *nikāḥ* for example he says that I marry her in order to make her lawful for the first husband or if he says she would be divorced from me after consummating the marriage then it would be a *bāṭil nikāḥ*. This lady will not become legal for first husband.[43]
Imām Mālik and his followers agree that the *nikāḥ* contracted on the condition of *taḥlīl* is not the contract of *nikāḥ* at all. They give their evidence on it that the main purpose of *nikāḥ* is that the married couple should live together forever and it is also condition for *nikāḥ* and this condition become void due to *taḥlīl nikāḥ* so neither this *nikāḥ* becomes valid nor she becomes permissible for the first husband.[44] According to Ḥanbli *fiqh* if intention of *ḥalālah* is there or condition of *ḥalālah* is stipulated prior to *nikāḥ* then in both cases *nikāḥ* would be *bāṭil* and she would not become permissible for the former husband from whom she was divorced.[45]

Logical Arguments for disapproving *ḥalālah* Marriage:

Marriage is a sacred institution which is meant for permanence. It is never temporary and the couple in wed-lock is called *muḥṣin* and *Muḥṣinah* (*ḥiṣn* meaning protection) as they are protecting each other's dignity and honor. Had *nikāḥ* meant any temporary basis, the Qur'ān would not have titled them so. Since they are protecting each other's dignity and honor, how can this purpose be fulfilled if a woman is married on precondition of getting divorced after conjugal relations with new husband, in order to become lawful for the first husband? Given that *muḥṣinīn* means protection of each other, it is also meant for closing the door for illicit relations. *Ḥalālah* gives the room for sexual immorality and is cursed by the Prophet (S.A.W) in various traditions. The Companions of the Prophet (S.A.W) 'Umar (R.A) punished such couple with stoning to death while 'Uthman (R.A) declared *ḥalālah* marriage as invalid and decreed that such marriage is devoid of the essence of *nikāḥ*.
Marriage in Islam is also called *'iḥṣān* opposite of *musāfaḥah* but *ḥalālah* is actually *musāfaḥah*, i.e. sex being the main objective of marriage opposite to the traits of marriage like procreation, love, affection, legality and permanence. By ignoring these traits, on one hand it opens a blatant way of sexual desires while on the other hand opens up possibilities for clandestine illicit relations after divorce. It was for the same reason that the *mut'ah* marriage was declared illegal. Moreover, a marriage just for one night for making the woman *ḥalāl* for the first husband worth nothing more than fornication and is strongly denounced by all scholars and 'Ulamā'.

Legal Framework for *ḥalālah* Marriage in Pakistan:

Dissolution of marriage in Pakistan is governed by various laws like Guardians Ward Act (1890), Child Marriage Restraint Act (1929), Dissolution of Muslim Marriage Act (1939), Muslim Family Law Ordinance (1961), Muslim Family Law Rules (1961), West Pakistan Muslim Personal Law, Shariah Application Act (1962), etc. Muslim Family Law Ordinance 1961 has prescribed a certain procedure, for dissolution of marriage; a husband has to go through the reconciliation process after decree from court. Even if he doesn't fulfill this procedure, divorce is still enforced. He is then required to give notice to Chairman Union Council about the divorce at the earliest. Till late 1970s, after promulgation of Zina

Ordinance, if the husband didn't notify the Union Council, as per MFLO procedure, the repudiated wife can be charged of adultery if she remarries, thus it became a tool for victimization. But in 1980s, the courts validated the divorce even if the husband failed to notify Union Council as per MFLO clause. The husband can re-unite with wife after first and second divorce by a fresh *nikāḥ* without any intervening marriage MFLO Section 7 (6) states. But after the third divorce (irrevocable) the wife loses legality for the husband without an intervening marriage. The wisdom for this intervening marriage is explained in exegesis of the Glorious Qur'ān, *The Meaning of Qur'ān* by Abu al-A'lā Maududi that Arabs has pre-Islamic custom to divorce their wives and then remarry them for innumerable times. This heinous custom was not only disgrace of woman as well as she was unable to marry any other person.[46] The Glorious Qur'ān shuts the door for this cruel norm. The highest authoritative courts have fortified this ruling of Qur'ān in their pronouncements.[47]

Conclusion:

Ḥalālah is a concept which is mal-practiced by Muslims because of ignorance of Islamic injunctions and making a mockery of the Divine laws. Qur'ānic concept of *ḥalālah* has no pre-condition of divorce at the time of marriage and if the second marriage gets dissolved by the couple's own differences or the wife becomes widow, only then the woman can remarry her former husband. This natural and incidental dissolution of later marriage is the prime objective given in the Glorious Qur'ān. An elucidation of Qur'ānic verses and traditions of the Prophet (S.A.W) are given to support this stance. A brief summary from various exegesess of the Qur'ān also explain that *ḥalālah* marriage is strongly condemned as marriage is meant for permanence and precondition of divorce to contract marriage is a grave sin cursed by the Prophet (S.A.W). The jurists have interpreted the verses of the Qur'ān and based their arguments on the basis of traditions as well as the decrees of the companions on the same issue. The eminent Juristic opinions also condone the theory of condemning the *ḥalālah* marriage. The Muslim Family Law Ordinance (1961) and Higher Court decrees also underpin such marriage as illegal and cursed. It is need of time that awareness about actual concept of *ḥalālah* has to be brought among masses through diverse measures.

Endnotes:

[1] Tanzil-Ur-Rehman.(1997).*Muslim Family Laws Ordinance.* Karachi, Pakistan: Royal Book Company.p.79
[2] Fatima, T. (2007). *Marriage Contract in Islam*. New Delhi, India: New Elegant Printers. p.32.
[3] Ibid.p.36.
[4] Hidayatullah. (1972).*Mulla Principles of Mahomedan Law*. Lahore, Pakistan: Falcon Printing Press.p.319.
[5] Op.cit.p.102.
[6] Shafqat M. (1979). *The Muslim Marriage, Dower and Divorce*. Lahore, Pakistan: Law publishing Company.p.12
[7] Ibid.14.
[8] Fatima.(2007). *Marriage Contract in Islam.* New Delhi: Deep and Deep Publications.p.1
[9] Ibid.p.33.
[10] Hidayatullah. (1972).*Mulla Principles of Mahomedan Law*. Lahore, Pakistan: Falcon Printing Press.p.222.
[11] Fakharuddin H.(1977).*Fatawa-i-Kazee Khan related to Mahomedan Law of Marriage, Dower, Divorce* .Lahore, Pakistan: Educational Press.p118.
[12] Ibid.120
[13] Ibid.158.
[14] Shafqat.M. (1979).*The Muslim Marriage, Dower and Divorce*. Lahore, Pakistan: Law publishing Company.p.50
[15] Ahmed. (1972). *Muslim Law of Divorce*. Islamabad, Pakistan: Ripon Printing Press.p.854.

[16] Hidayatullah. (1972).*Mulla Principles of Mahomedan Law*. Lahore, Pakistan: Falcon Printing Press.p.319.
[17] Abu Ala Maududi. (1987). *Tafsir-ul-Holy Quran*. Lahore, Pakistan: Addara Tarjaman-ul-Holy Quran.p.176, 177.
[18] Fazl-ul-Rehman. (1989).*Islami Qanoon: Nikah Talaq Warasat*. Karachi, Pakistan: Maktaba Dar-ul-Uloom.p.32.
[19] Al-Quran.2:230.
[20] Abdul Ala Maududi brilliant oeuvre was translation of the Qur'an in Urdu, *Tafhim ul-Qur'an* (*The Meaning of the Qur'an*), envisioned providing the Qur'an a self-claim elucidation. Its 19 volumes are blend of orthodox and modernist explanation and deeply influenced contemporary Islamic thoughts and it has been interpreted into a number of languages and extensively read throughout the Muslim world.
[21] Maududi, A.A. (2003).*The Meaning of the Holy Quran*. (Vol.1). Lahore, Pakistan: Maktaba Jaded Press. p.80.
[22] It was written by one of the leading Muslim scholars Allama Shabbir Ahmad Uthmani in Urdu and in 2004 it was translated into English by Mohammad Ashfaq Ahmad, this interpretation provides in-depth detail as compared to others in English Quran translations so the English reader acquires the deep essence of the Quran. It is in seven editions and in three volumes.
[23] Ahmad S.(2003).*The Noble Holy Quran.(Tafseer-e-Usmani).(*Ahmad Ashfaq.Trans.) Vol.1 Karachi: Dar ul-Ishaat. p.129.
[24] The famous exegesis of the Holy Qur'an entitled "Zia-ul-Qur'an" in Urdu language in five volumes in 19 years by Pir Muhammad Karam Shah. He was a famous saint of Chishtia order, a learned theologian, a commentator of the Holy Qur'an, a biographer of the Holy Prophet (Peace be upon him), a jurist, an educationist and justice of the Supreme Court of Pakistan.
[25] Karam, A. S. (2008). *The Light of the Holy Quran. (Dhiya-ul-Holy Quran).*Lahore, Pakistan: Zia-ul-Holy Quran publications.p.126.
[26] Ibid.p.127.
[27]This is written in very inspiring, simple and effective language for the reason that MawlanaKailani himself was a very humble and God fearing gentleman. In the four volumes of this Tafsir he conferred numerous contemporary issues.
[28]Abu Dawud S.B.A.(2008).*Sunan Abu Dawud*. (Nasiruddin Al-Khatta, Trans.)(Vol.3). Riyad: Darussalam. p.517.
[29] Ibid.p.180.
[30] Ibid.p.181.
[31]Asaraf A.T.(1982). *Bayaan-ul-Holy Quran*. (Vol.1).Multan, Pakistan: Adara Talifaat Asharfiya. p.153.
[32]Abu Hussain, M.I.H. (2007). Sahih Muslim. (Nasiruddin al Khattab, Trans.) (Vol.4). Riyadh:Darusslam.p.72
[33] Eisa M.I.E.(2007). *Jami At-Tirmidhi*.(Abu Khaliyl,Trans.)(Vol.2)Riyad:Darussalam.p.489
[34] An-Nasai.(2007). *Sunan An-Nasai*. . (Nasiruddin Al- Khatta, Trans.) (Vol.4). Riyad: Darussalam.p.131
[35] Ibid.p.491
[36] Abu Dawud S.B.A.(2008). *Sunan Abu Dawud*.(Nasiruddin Al- Khatta,Trans.) (Vol.3). Riyad:Darussalam.p.517.
[37] Ibid.108.
[38] Ibid.p.109
[39] Sadique. M. H. (1994).*Taqiq-e-Halala*. Lahore, Pakistan; Jamia Rizwiah.p.6.
[40] Ali ibn Abī Bakr Marghinani. (2002). Hidaya: commentary on the Islamic laws. (Charles Hamilton, Zahra Baintner.Trans.) Lahore, Pakistan; Dar ul Ishaat.p.380.
[41] Ibid.p.380.
[42] Ibid.p.381.

[43] Abdul Rahman Al Juzairi. (2006). *Al-Fiqh 'Ala Al-Madzahib Al-Arba'ah.* (Mansoor Ahmed Abasi, Trans.) (Vol.4) Punjab, Pakistan; Ulema Academy. P 80
[44] Ibid.p.80.
[45] Ibid.p.81.
[46] The Meaning of Quran, 10th Edition, p. 167
[47] Gulzar Ahmad Vs Mst Maryam Naz (2000 MLD 477), Fazal-Subhan Vs Mst Sabreen (PLD 2003 Peshawar 169), Muhammad Ayub Khan Vs Mst Shehla Rasheed and Others (PLD 2010 Karachi 131)Zulfiqar Ali Vs MSt Yasmeen Mukarram and others (PLD 2011 Lahore 458)